

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/823,584	WEISS, LAWRENCE D.
	<b>Examiner</b> MARK A. FLEISCHER	<b>Art Unit</b> 3624

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Amendments filed 7 August 2009.

2.  The allowed claim(s) is/are 37, 38, 40 – 50, 52 – 62 and 64 – 72.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached

1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)

5.  Notice of Informal Patent Application

2.  Notice of Draftperson's Patent Drawing Review (PTO-948)

6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_.

7.  Examiner's Amendment/Comment

4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

8.  Examiner's Statement of Reasons for Allowance

9.  Other \_\_\_\_\_.

/Romain Jeanty/  
Primary Examiner, Art Unit 3624

***EXAMINER'S AMENDMENT***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with George Beck, Esq., Applicant's representative on 4 December 2009.

The application has been amended as follows:

**In the claims:**

This listing of claims will replace all prior versions and listings of claims in this application.

1 – 36. (Canceled)

37. (Currently Amended) A computer-implemented method of conducting product assessment and development, said method implemented by executing instructions stored on at least one computer-readable medium, and comprising:

prompting a respondent at a data entry terminal to identify a first existing product; prompting said respondent to rate said first product on a predetermined scale displayed at said terminal;

providing information to the respondent that describes a second product different from said first product;

causing to display a visual indicator along said scale corresponding to said respondent's rating of said first product;

prompting said respondent to rate said second product on said scale displayed at said terminal along with said respondent's rating of said first product;

displaying a visual indicator along said scale corresponding to said respondent's rating of said second product;

providing said respondent with additional information about said second product via said terminal;

prompting said respondent to rate said second product on said scale, wherein said respondent's rating of said second product represents a re-rating of said second product by the respondent in view of the additional information about said second product;

displaying a visual indicator along said scale corresponding to said respondent's rating of said second product; and

assigning a score reflecting the respondent's rating of said second product made by said respondent; wherein the respective steps of prompting, providing, causing, prompting, displaying, providing, prompting, displaying and assigning are performed with one or more computers.

38. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 37, further comprising:

prompting said respondent to identify another existing product;

prompting said respondent to rate the other existing product against said scale;

and

displaying a visual indicator along said scale corresponding to said respondent's rating of said other existing product.

39. (Canceled)

40. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 39 37, further comprising prompting said respondent to respond to at least one of a plurality of questions regarding said second product.

41. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 40, further comprising collecting responses and ratings made by said respondent, calculating an overall respondent rating for said second product and displaying said rating to the respondent via the terminal.

42. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 41, wherein said step of calculating includes calculating a weighted average of said answers and ratings in accordance with a predetermined formula.

43. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 42, wherein after said step of displaying said rating to the respondent, said method further comprising receiving an indication from said terminal whether the overall respondent rating should be revised.

44. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 40, wherein said respondent is prompted to respond to at least one of said plurality of questions by selecting a corresponding location on the scales.

45. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 41, wherein said overall respondent rating for said second product is displayed to the respondent in a format indicating a numeric score and a corresponding textual description.

46. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 37, wherein said respondent

is prompted to provide ratings by selecting a corresponding area on a graphical display with a user input device electrically connected to said terminal.

47. (Currently Amended) A computer-implemented method of conducting product assessment and development according to claim 37, wherein said scale is displayed to the respondent with demarcations defining a plurality of subjective ratings.

48. (Currently Amended) A computer-implemented method of conducting assessment and development of a product using information from a plurality of potential customers, said method comprising:

collecting scores obtained from ratings made by a plurality of respondents using the method of claim 37; and

generating a product assessment report for said second product.

49. (Currently Amended) A program product for conducting product assessment and development, said program product comprising machine-readable program code for causing, when executed, one or more machines to perform the following steps operations:

prompting a respondent at a data entry terminal to identify a first existing product;  
prompting said respondent to rate said first product on a predetermined scale displayed at said terminal;

providing information to the respondent that describes a second product different from said first product;

causing to display a visual indicator along said scale corresponding to said respondent's rating of said first product;

prompting said respondent to rate said second product on said scale displayed at said terminal along with said respondent's rating of said first product;

displaying a visual indicator along said scale corresponding to said respondent's rating of said second product;

providing said respondent with additional information about said second product via said terminal;

prompting said respondent to rate said second product on said scale, wherein said respondent's rating of said second product represents a re-rating of said second product by the respondent in view of the additional information about said second product;

displaying a visual indicator along said scale corresponding to said respondent's rating of said second product; and

assigning a score reflecting the respondent's rating of said second product made by said respondent; wherein the respective steps of prompting, providing, causing, prompting, displaying, providing, prompting, displaying and assigning are performed with one or more computers.

50. (Currently Amended) A program product for conducting product assessment and development according to claim 49, wherein said ~~method~~ operations further comprise[[s]]:

prompting said respondent to identify another existing product;

prompting said respondent to rate the other existing product against said scale; and

displaying a visual indicator along said scale corresponding to said respondent's rating of said other existing product.

51. (Canceled)

52. (Currently Amended) A program product for conducting product assessment and development according to claim 54 49, wherein said ~~method~~ operations further comprise[[s]] prompting said respondent to respond to at least one of a plurality of questions regarding said second product.

53. (Currently Amended) A program product for conducting product assessment and development according to claim 52, wherein said ~~method~~ operations further comprise[[s]] collecting responses and ratings made by said respondent, calculating an overall respondent rating for said second product and displaying said rating to the respondent via the terminal.

54. (Currently Amended) A program product for conducting product assessment and development according to claim 53, wherein said ~~step~~ operation of calculating includes calculating a weighted average of said answers and ratings in accordance with a predetermined formula.

55. (Currently Amended) A program product for conducting product assessment and development according to claim 54, wherein after ~~said step of~~ displaying said rating to the respondent, said ~~method~~ operations further comprise[[s]] receiving an indication from said terminal whether the overall respondent rating should be revised.

56. (Previously Presented) A program product for conducting product assessment and development according to claim 52, wherein said respondent is prompted to respond to at least one of said plurality of questions by selecting a corresponding location on the scale.

57. (Previously Presented) A program product for conducting product assessment and development according to claim 53, wherein said overall respondent rating for said second product is displayed to the respondent in a format indicating a numeric score and a corresponding textual description.

58. (Previously Presented) A program product for conducting product assessment and development according to claim 49, wherein said respondent is

prompted to provide ratings by selecting a corresponding area on a graphical display with a user input device electrically connected to said terminal.

59. (Previously Presented) A program product for conducting product assessment and development according to claim 49, wherein said scale is displayed to the respondent with demarcations defining a plurality of subjective ratings.

60. (Currently Amended) A program product for conducting product assessment and development according to claim 49, wherein said ~~method~~ operations further comprise[[s]] generating a product assessment report for said second product.

61. (Currently Amended) A system for conducting product assessment and development, said system including a server communicatively coupled to a network to which at least one terminal is coupled, said server being configured to:

prompt a respondent at a data entry terminal to identify a first existing product;  
prompt said respondent to rate said first product on a predetermined scale displayed at said terminal;

provide information to the respondent that describes a second product different from said first product;

cause to display a visual indicator along said scale corresponding to said respondent's rating of said first product;

prompt said respondent to rate said second product on said scale displayed at said terminal along with said respondent's rating of said first product;

display a visual indicator along said scale corresponding to said respondent's rating of said second product;

provide said respondent with additional information about said second product via said terminal;

prompt said respondent to rate said second product on said scale, wherein said respondent's rating of said second product represents a re-rating of said second product by the respondent in view of the additional information about said second product;

display a visual indicator along said scale corresponding to said respondent's rating of said second product; and

assign a score reflecting the respondent's rating of said second product made by said respondent, wherein the respective configurations to prompt, provide, cause, prompt, display, provide, prompt, display and assign are performed with one or more computers.

62. (Previously Presented) A system according to claim 61, wherein said server is further configured to:

prompt said respondent to identify another existing product; and

prompt said respondent to rate the other existing product against said scale; and

display at said terminal a visual indicator along said scale corresponding to said respondent's rating of said other existing product.

63. (Canceled)

64. (Previously Presented) A system according to claim 63 61, wherein said server is further configured to prompt said respondent to respond to at least one of a plurality of questions regarding said second product.

65. (Previously Presented) A system according to claim 64, wherein said server is further configured to collect responses and ratings made by said respondent, calculate an overall respondent rating for said second product and display said rating to the respondent via the terminal.

66. (Previously Presented) A system according to claim 65, wherein said server is configured to calculate a weighted average of said answers and ratings in accordance with a predetermined formula.

67. (Previously Presented) A system according to claim 65, wherein after said displaying said rating to the respondent, said server is configured to receive an indication from said terminal whether the overall respondent rating should be revised.

68. (Previously Presented) A system according to claim 64, wherein said respondent is prompted to respond to at least one of said plurality of questions by selecting a corresponding location on the scale.

69. (Previously Presented) A system according to claim 65, wherein said overall respondent rating for said second product is displayed to the respondent in a format indicating a numeric score and a corresponding textual description.

70. (Previously Presented) A system according to claim 61, wherein said respondent is prompted to provide ratings by selecting a corresponding area on a graphical display with a user input device electrically connected to said terminal.

71. (Previously Presented) A system according to claim 61, wherein said scale is displayed to the respondent with demarcations defining a plurality of subjective ratings.

72. (Previously Presented) A system according to claim 61, wherein said server is further configured to generate a product assessment report for said second product.

#### **ALLOWANCE**

2. The following is an Allowance in response to the Amendment submitted on 7 August 2009 and the interview conducted with George Beck, Esq., Applicant's

representative on 2 December 2009. Claims 1 – 36, 39, 51 and 63 are cancelled. Claims 37, 38, 40 – 50, 52 – 55, 60 and 61 are currently amended. Claims 37, 38, 40 – 50, 52 – 62 and 64 – 72 are currently pending and allowed below.

#### ***REASONS FOR ALLOWANCE***

3. The following is the Examiner's statement of reasons for allowance.
4. The present invention is directed to a unique system and method for assessing and developing a "product", which may broadly include a variety of methods, services, or articles, either pre-existing or new. While prior methods exist for seeking respondent feedback on various products, such prior methods often fail to obtain respondents' views in an objective manner absent time-consuming and expensive sampling methods. According to one aspect of the invention reflected in the present claims, the respondent is prompted to identify an existing product, which the respondent then rates on a metric scale. The respondent's rating provides a baseline, referred to in the specification as a "metric anchor." This feature facilitates gathering of valid and replicable data from the respondent. It permits the respondent to articulate his or her baseline experience on an objective basis. This baseline is then used to rate a different product, from which valid data concerning the second product may be obtained. According to other aspects of the invention, the respondent may identify an additional product that serves as a baseline. (See claim 38). According to another aspect, the

respondent is prompted to revalidate his or her prior rating after receiving additional information (See claim 37). Other specific features are recited in the remaining dependent claims.

5. The closest prior art is Stewart (US 20020152110), and Herz (US 6,029,195). Stewart teaches a technique by which a respondent can select from various graphical depictions of existing products. Herz (US 6029195) teaches a system for customized electronic identification of desirable objects in an electronic media environment. However, the combination of Stewart and Herz fails to teach or suggest prompting the respondent to identify a preexisting product that is then rated, and from which rating the user then rates a second product along a metric scale, as recited in independent claims 37, 49 and 61.
6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - Lukomnik, et al. (US PgPub 20050010543 A1) pertains to a scoring methodology.

- Shaya, et al. (US PgPub 20020161664 A1) pertains to an intelligent performance based product recommendation system.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Bradley Bayat** whose telephone number is **571.272.6704** may be contacted.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

Art Unit: 3624

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

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/Mark A Fleischer/  
Examiner, Art Unit 3624  
4 December 2009

/Romain Jeanty/  
Primary Examiner, Art Unit 3624